F. IX-4.

1928

File No. 15-18

Previous references. (Legis)

Legis 21-10(1-7)
" 15-18 (1-4).

Serial Nos. 5—8.

Later references.

GENERAL AND REVENUE SECRETARIAT.

A. Collection (20)

Serial Nos. 4.

Mamsingh Part I for October 28.

SUBJECT

Bill to consolidate and amend the law relating to Insolvency in Mysore.

Mamasuamy Iyengar
20/11/28.

G. R. S. III -1] 1918

GENERAL AND REVENUE SECRETARIAT.

NOTES.

File No. 15-18

FILE HEADING.

Bill to ~~amend~~ consolidate and amend the law relating to Insolvency in Mysore

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

WD. 1881—GPB—30 000—1-8-21

G. R. S. III-21

General and Revenue Secretariat. | Legis File No. 15 of 1916

Serial No.

3) Submit with a brief note with a statement of objects & reasons. The Bombay Indian Act IX of 1920 has been adopted

4) The points of difference between our Regulation of 1911 of the Bo. Indian Act of 1907, as detailed in the letter of 23rd Dec 1910 (page 15 ante print) have been kept up.

(p. 15 Legis 21-of 10)

Submit for orders.

S.G. 16/1/24. MR

5) The bill, has been Scrutinized, and such Verbal changes as are necessary for adoption here, are made. Care has been taken to omit or modify the clauses, so as to correspond with the changes that were proposed and adopted, when the existing Regulation was passed. Legis file 21-10 (Flag Z) gives the reasons for departure made from the Bombay Indian Act when our existing Regulation was framed. The differences mentioned in (Flag Z) Legis file 21-10 have been kept up in the present bill also. The

See 4 is new

NOTE—Contn. sheet.

G. R. S. III-21

4
3

General and Revenue Secretariat. | Legis File No. 15 of 1916.

Serial No.

This Connection attention may perhaps be invited to cl 28 (3) and cl 72. Both have been struck out in the bill, because our existing Regulation does not contain any such provisions. As was done last time (6) when the existing Regulation was under consideration, this for orders if these two provisions may be retained and left to the decision of the Legislative Council. Last time the Council threw these provisions out a similar course may perhaps be adopted.

(6) They are necessary & may be retained M.H.H. Legis

(b) In Sec 75, sub-cl (3) has been altered so as to conform to Sec 46 (3) of the existing Regulation. Reason for this alteration is given in Flag Z. Legis File 21-16

(7) of the Schedules, II is not necessary & instead of inserting the different sections in cl 2 of Sec 75 Sch. I is prepared & may remain.

(8) Clauses 87 & 92 are not necessary / forms & are struck out. For purposes of introduction the bill may be appd. This is one of the bills to be placed before H.E. in your month. Cag Scheds. 25/6

(Chief Secy)

NOTE—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat.

Legis. File No. 15 of 1916

Serial No.

9328/15

9) (Returned) B. Nagappa 8/5

10) May be approved.
Bill as passed by Legislature may be published in the Gazette.
Mir Hamza Hussain
16/5 18/5

Do N.C. 10 18/5/24

11) Done
Bill as passed by Legislature
A.R Banerji
20.5

Ch. by cable 12) Circulate
K Matthan.
21/5

13) I agree K R. Srinivasa Iyengar
26/5

14) S. V. Submitted.
Done 31/5

30 MAY 1924 676

NOTE—Contn. sheet.

Statement to be placed before the R.A. re. the amendment of the Insolvency Regulation.

The Provincial Insolvency Act, 1907 of the Government of India on which the Mysore Insolvency Regulation, 1911 is based has been amended and consolidated by the British Indian Act V of 1920. It is desirable that the Mysore Regulation is also amended on similar lines.

In the working of the existing Regulation certain defects have been found. The main criticism against the existing measure is that it lends itself to the protection of fraudulent debtors, that it subjects an undischarged insolvent to little or no practical inconvenience and that its provisions for the punishment of fraudulent insolvents are not effective in practice.

It is proposed to remedy these defects by an amending bill. Opportunity has been taken to rearrange the sections of the existing Regulation in a better sequence.

One of the principal defects in the existing law arises from the fact that the conduct of the debtor in many cases never comes under the scrutiny of the court The stage at which the misconduct of the debtor should come before the court is when the insolvent applies for the discharge and there is nothing in the Regulation which requires him to apply for discharge. It is therefore proposed to include in the

Regulation provisions which will compel an insolvent to apply to the court within a prescribed period for his discharge or to lose the protection afforded by insolvency proceedings.

It will hereafter be possible for the court to reject a petition of a debtor on the ground that he has no right to present the petition and the court will have discretion in each individual case as to the amount of protection to be aforded to a petitioning debtor.

There is no provision at present sufficiently defining the powers of courts to decide questions of law and fact arising in insolvency proceedings. There has been a conflict, for i.e, as to whether a court can or cannot decide questions involving title of the debtor to properties sought to be proceeded against. It is therefore proposed to confer a general power on the courts to decide all questions of law and fact arising in insolvency proceedings for the speedy realisation of assets in the interests of creditors

Proceedings instituted against fraudulent insolvents are frequently infructious. Penal provision will be made more effective by including within its scope wilful failure of the duties imposed by the Regulation on the debtors admitted to insolvency. It will be provided that a dishonest insolvent guilty of an offence under the Regulation can be proceeded against even after he had obtained his discharge or after a compesition

has

has been accepted.

It will not be possible hereafter to allow compositions before adjudication as the court will not have before it the necessary facts to justify it in dealing with such compositions.

An interim receiver will normally be appointed when admitting the petition and he will then have all the powers conferable on a receiver appointed under the code of Civil Procedure.

The object of imprisonment being intended only to serve as a threat to those who, having assets would not pay, protection against arrest and detention would be afforded to an insolvent in respect of whom an order of adjudication has been made. Even in cases of debtors under arrest or imprisonment in execution of a decree of any court for the payment of money, their release may be ordered while admitting their petition of insolvency or at any subsequent time before adjudication.

SG
TD.

Final Note by the First Member of Council.

Subject:—

Bill to consolidate and amend the law relating to Insolvency in Mysore.

Page 1 of office Notes

19) It was represented in the last Dasara Session of the Representative Assembly that the Mysore Insolvency Regulation, 1911, is defective inasmuch as it affords complete protection to fraudulent and unscrupulous debtors and subjects the undischarged insolvent to little or no practical inconvenience. To protect the interests of the creditors it was urged that the Regulation might be amended on the lines of the British Indian Provincial Insolvency Act, V of 1920.

20) A draft Bill has been prepared accordingly in the Legislative Branch to consolidate and amend the law relating to insolvency, adopting the British Indian Act with the necessary changes to suit local requirements. The following are among the provisions made in the Bill to check the abuses rendered possible by the defects in the existing law:-

(i) Provision to compel an insolvent to apply to the Court within a prescribed period for his discharge, failing which he has to lose the protection afforded by the insolvency proceedings.

(ii) Provision giving discretion to the courts as to the amount of protection to be afforded to petitioning debtor in each individual case, the debtor being required to show that he is unable to pay his debts and that he has not concealed his property.

(iii) Provision empowering the courts to decide all questions arising in the proceedings such as question of title to property, with a view to the speedy realisation of assets in the interests of creditors.

4 office Notes 21) The bill has been scrutinized by me and has also been approved by the Dewan and the Second Member of Council.

22) Gracious sanction of His Highness is solicited to place the Bill before the Legislative Council. It will also be included in the Le-

Legislative programme to be placed before the Representative Assembly at the Budget Session.

Bangalore;
30th May 1924.

MEMBER OF COUNCIL.

8 12

Submitted to His Highness.

By

I submit herewith a Final Note by the.....FIRST.....

Member of Council on the subject of.....Bill to consolidate and amend the law relating to Insolvency in Mysore,

....

for His Highness' gracious approval.

Dewan.

31 MAY 1924

9

13
C456

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Bill to consolidate and amend the law relating to Insolvency in Mysore.

9/3

Order.

KRM
4/6/24

26 Secy L.L

5 JUN 1924

10

14

General and Revenue Secretariat.

C456

Bill to Consolidate and amend the law relating to Insolvency in Mysore —

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to the Members of Council for perusal of

His Highness' orders $\frac{\text{before}}{\text{after}}$ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Govt.

Through the Secretary to Government.

...Department.

8/5/6.

The usual forms may be put up to obtain permission of the Govt & then the file put up for circulation. 5/6

FIRST MEMBER OF COUNCIL.

SECOND MEMBER OF COUNCIL.

THIRD MEMBER OF COUNCIL.

Note, with the forms

6/6/26

NOTE—Contn. sheet.

Mono WD 1190—GPB—500 9-1-3.

General and Revenue Secretariat. | Legs File No. 15 of 1916

Serial No.

8876

29/6/16

29 The usual forms for the Obtaining permission of the Secretary are put up

1st Member 30.6.16

6/6

Secretary. 1.7.16

8/11/16

7.6

31 The Bill has been published under rule 8 of the rules of business and it has to be read and referred to the select committee at the next Legislative Session 32 Secretary for orders as to the selection of members of the committee

7/11/16 Secretary

1. The 1st Member
2. Mr B. Ranga Rao
3. Mr K. Shankaranarayanan
4. Mr C. Narasimha
5. Mr M. Rama Chandra Rao
6. Mr G. Narasimha
7. The Hon'ble Mr. B. Narasimha Raju

3892
13/11

NOTE—Contn. sheet.

16

~~Object~~
Secy (L&C)

17/11

18/11

34 Posts BT
with compts
BR 18.11.24

Letter No 9728 dt 5-12-24
from the Secy to the Resident in Mysore

States that the Bill will require a reference to the Court of India before it is passed into law

10

14

General and Revenue Secretariat.

C456

Bill to consolidate and amend the law relating to Insolvency in Mysore —

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to the Members of Council for perusal of His Highness' orders $\frac{\text{before}}{\text{after}}$ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure)

Chief Secretary to Govt.

Through the Secretary to Government.

...R. and L....Department.

8/5/.

The usual forms may be put up to obtain permission of the Govt & then the file put up for circulation. CA 5/

FIRST MEMBER OF COUNCIL.

SECOND MEMBER OF COUNCIL.

THIRD MEMBER OF COUNCIL.

Subs. put up the forms

6/6/41

NOTE—Contn. sheet.

Mono WD 1190—GPB—500 9-1- 3.

G. R. S. III-2.

General and Revenue Secretariat.

Legis File No. 15 of 1915

Serial No.

25 The Select committee report was presented to the Legislative and ordered to lay in on the 15th inst.

26 As the Bill has to receive the concurrence of the Govt of India drafts as part of the Rules.

Submitted for orders.

S.G. 25/4/15 27/4/15

27) Draft Local Residuary rules may be approved.

I. Sangameswara Iyer 28/4

28 B. Nagappa 28-4

29 Apd

To be submitted for Dewan's perusal before issue.

K. R. Srinivasa Iyengar 29/4

Dewan 30 Sec. A.R. Banerji 30/4

31 C. Abdul Ghani

OFFICE, 1 MAY 1925 8170

NOTE—Contn. sheet.

General and Revenue Secretariat.

Legis File No. 15 of 1918

110: 783 P 13 18

Serial No

6 To the Secy to the Resident

No Pol 932 dy 7.5.25

Rs two copies of the Insolvency Bill as amended by the Select Committee together with copies of the Select Committee reports thereon and states that the bill has been considered and adopted by the Ass. and requests that the sanction of the Govt of India may be obtained for the bill being passed into law

7 From

The Secy to Resident

No S 746 dy 8-7-25

States that the Govr. in his council has accorded his consent to the Bill. If approved this bill may be passed at the meeting of the Legis. Council on 11th Augt

Sd.

13/7/25 A.S.R.

(4) When the Secy L.C. sends material for this Agenda this may be enclosed in it. Please enquire & enter this also for the agenda of the next meeting, coming off on the 7th Sept.

13/7

43 The file was sent for Govt. Sanction

(4) I should like Explanation of the Resolving Committee was not sent for my perusal as soon as it was received

Sept 1925

Explained by aforesaid letter dated 26th Sept 1925

NOTE—Contn. Sheet

110 pages

Serial No

DEWAN'S OFFICE.
RECD. 26 SEP 1925
Regd. No. 2626

32) 46
Draft Bill
Draft S.R.V
21.9.25
Draft S.R
21/9
Draft Sent
21/9

33) for Consideration
C Abdul Ghani
Cag
21.9

560/23

34) B. Nagappa
22
Cag
24/9

Final Bill by the
Committee is placed below

Final Submission
with Manuscript
Cag
26/9

23/9
Dewan

24-9
Cag
26/9

Final Note by the First Member of Council.

Subject:—

Promulgation into law of the Bill to consolidate and amend the law relating to Insolvency in Mysore.

35) In June 1924 His Highness was graciously pleased to approve of the proposed Bill to consolidate and amend the law relating to Insolvency in Mysore and of its being placed before the Representative Assembly and introduced into the Legislative Council. The Bill was accordingly introduced into the Legislative Council in December 1924 after its general principles were agreed to by the Representative Assembly.

A 36) The report of the Select Committee to which the Bill had been referred was adopted by the Legislative Council on 15th April 1925 and the Bill was finally passed by the Council on the 7th September 1925, after sanction of the Government of India was obtained.

B 37) A copy of the Bill as finally passed is placed in the file.

38) The gracious sanction of His Highness is now solicited to promulgate the Bill into law.

FIRST MEMBER OF COUNCIL.

23-9-1925.

SUBMITTED TO HIS HIGHNESS

I submit herewith a Final Note by the First Member of Council on the subject of Promulgation into law of the Bill to consolidate and amend the law relating to Insolvency in Mysore.
for His Highness' gracious approval.

Dewan

28 September 1925.

PS/

Submitted to His Highness.

39) *I submit herewith a Final Note by the*...First.....
Member of Council on the subject of....Promulgation...
into law of the Bill to consolidate and amend the
law relating to Insolvency in Mysore.....
for His Highness' gracious approval.

Dewan.

2? SEP 1925

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Promulgation into law of the bill to consolidate and amend the law relating to Insolvency in Mysore.

129

40) *Order.*

~~KRW~~

30/9/25

41) Copy to C Abdul Khan
cay 3/10

Serial No

42

Draft Govt. (43) Issue, after personally handed 4/10 C Abdul Ghani
T.D. 4.10.26
Ex. 10.26
4/10 A.S.
(18th member)

83
4.10

... Draft forms, a copy of the Select Committee report on the Bill. This may be put up. And as may be also noted if any amendments were made by the Select Committee in the draft Bill & if these have been embodied in the final draft Bill now to be sent to the Govt. Press for publication

K R Sivaramakrishnan
4/10

(45) A copy of the Select Committee Report is in the file. (This flag and A) The Bill was published incorporating the Changes proposed (these changes are in italics) by the Select Committee & the Bill as published was passed by the Council. A copy of this, with directions to change italics into Roman type & the title of the Bill & the Changes, is now being sent for promulgation. In the proof stage, it will be carefully gone through once again & finally published. — C Abdul Ghani

cag 5/10

9.

(Ltr sent) 10/10 (46) Issue K R Sivaramakrishnan 9/10/26 cag 5/10

84 4/10

158
9.10

(47) Issue cag 10/10 C Abdul Ghani (1 Draft)

cag 7.10

Note—Contn. Sheet

WD 0569—GP_

Legis. File No. 15 of 1928.

General and Secretari

Serial No. 8

To The Compiler Mysore Gazette.
No P 914 Dt 13.10.28.
Orders the Publication of the 1928 Regn: to Consolidate & amend the Law relating to Drainage in Mysore as Regn II of 1925.

NOTE—Contn. Sheet

Serial No

42 Draft Bill ... 43) Issue, after perusal by Member cag 4/10 C Abdul Ghani
1 L.D. 5.10.26
Ex. 10.25
4/10 A.S.K. (18 Members)

~~43)~~ Draft from ... a copy of the Select committee report on the Bill. This may be put up. And it may be also noted if any amendments were made by the Select committee in the draft Bill & if there have been omissions in the former draft Bill now to be read in this for ... for publication

K R Srinivasa Ayyangar

4/10

44) A copy of the Select Committee Report is in the file. (This flagged A) cag 5/10 The Bill was published incorporating the Changes proposed (these changes are in italics) by the Select Committee & the Bill as published was passed by the Council. A copy of this, with directions to change italics into Roman type & the title of the Bill & other Changes, is now being sent for promulgation. In the proof stage, it will be carefully gone through once again & finally published. C Abdul Ghani

(Let sent 10/10) 44) J & K R Srinivasa Ayyangar cag 5/10 37/ 10/10

45) Issue cag C Abdul Ghani 4/10 (1 Dec) 84 4/10. cag 7.10

158/9.10

NOTE—Contn. Sheet

Office of the Dewan of Mysore,

Dated June 1924.

Mushir-ul-mulk Mr. Mir Hamza Hussain, Member of the Mysore Legislative Council is hereby permitted to introduce a bill to consolidate and amend the law relating to usufruct in Mysore at a meeting of the said Council, subject to the rules for the time being in force under the Mysore Legislative Council Regulation, No.XIX of 1923.

Dewan of Mysore.

17 JUN 1924